THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.19712 OF 2005

ORDER:

The petitioner is the owner of a shop bearing door No.16.8.933/D/I situated at Nalgonda 'X' Road, Malakpet, Hyderabad. He filed this writ petition alleging that the Respondent-Corporation having taken up a massive road widening programme at Nalgonda 'X' Road, Malakpet road, Hyderabad, and to facilitate the construction of Flyover in Malakpet, Hyderabad and having finalized the date of start of the project, saying that the premises of the petitioner is an impediment in the way of the said Flyover, issued Lr.No.1603/RW/ACP/C1/MCH 2005 dated 18.8.2005 and asked him to hand over possession of his property to the Municipal Corporation of Hyderabad and give consent to accept compensation. He further alleges that on 1.9.2005 the 1st respondent and his officials visited the shop of the petitioner and asked him to hand over possession of the said shop on or before 6.9.2005. Therefore, the petitioner submits that any such action without due process of law under the provisions of the Hyderabad Municipal Corporation Act, 1955 or the Land Acquisition Act, 1894 or other laws is arbitrary and illegal.

Heard the learned Assistant Government Pleader for Revenue. In **P.Lakshmana Rao v. Executive Officer,** a Division Bench of this Court issued directions to be followed by Municipal authorities, Panchayat authorities and Revenue authorities for acquiring the land for public purpose. Having regard to the decision of the Division Bench, I have considered similar issue in a number of writ petitions and culled out various principles of law to be followed by the Government while acquiring/utilizing the private land for road widening. The principles were reiterated by my learned brother, Sri Justice B.Sudershan Reddy in **M.Madhavi Latha v. Rajendranagar Municipality**. The principles laid down by the Division Bench are as follows.

(1). Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.

(2). If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections, if any, from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment or unauthorised occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.

(3). In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.

(4). If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.

(5). In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R&B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.

(6). If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status quo obtaining as on today regarding the structures.

The writ petition is disposed of as above directing maintenance of *status quo* as on today. No costs.

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(V.V.S.RAO, J)

6.09.2005

Kgr

Note:

Operative portion by wire at party's cost.